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2 Q. To your knowledge, was Chamilia

3 required to change it's round clasp?

4 A. Yes.

5 Q. Who required that?

6 A. Well, I don't -- actually, when Michael

7 Lund showed up in San Francisco, I had not seen

8 the product of Pandora or Chamilia before the

9 August show. And when Michael Lund showed up and

10 showed me that the products were alike, I made a

11 phone call and said, you know, this is

12 unacceptable. We need to change this line so

13 that it has its own identity.

14 Q. So it was your decision to change the

15 clasp of the Chamilia chain?

16 A. I mean, we had discussed changing the

17 line, and then there was the legal action.

18 Q. So was it your decision to change the

19 lock on the Chamilia chain?

20 A. I wouldn't say it was my decision.

21 Q. Whose decision was it?

22 A. I would say that that was Jeff's

23 decision.

24 Q. And when was that decision made?

25 A. Well, I think the decision to change

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2 the line was made as soon as we found out it was

3 just like Pandora's.

4 Q. When you say the line was just like

5 Pandora's, what line are you referring to?

6 A. The Chamilia.

7 Q. What about the lines were similar or

8 just like Pandora?

9 A. The beads were the same.

10 Q. Identical?

11 A. Pretty much.

12 Q. The entire line?

13 A. Pretty much.

14 Q. When you say pretty much, can you think

15 of any beads --

16 A. There were a few beads that they had,

17 that Chamilia had that Pandora didn't have.

18 Q. And which ones were those?

19 A. I don't really remember.

20 Q. When you said you placed a call from

21 the San Francisco gift show, who did you call?

22 A. I called Jeff. Well, I had not -- I

23 got the product I think on Friday. And I'd never

24 seen it. And just had phone conversations.

25 Showed up at the San Francisco gift show, opened

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2 the box that Saturday morning, and was there
3 maybe an hour and a half. And everyone had, you
4 know, seen the product.

5 And then I received -- Michael Lund
6 called my office, Whirlow & Associates, and said
7 I needed to immediately call him. That he had a
8 worldwide patent. And I needed to stop selling
9 the beads immediately.

10 And I did not call him back. And he
11 called and said he was flying out to San
12 Francisco to come see me and to close me down at
13 the show because he had a worldwide patent. And
14 I had already called Jeff and I talked to Troy.
15 And they had asked what the worldwide patent, you
16 know, the number.

17 And then when Michael Lund showed up at
18 the booth, he proceeded -- he was very pleasant,
19 proceeded to -- he was flashing a paper. I asked
20 him for a copy saying that this was -- saying he
21 had a worldwide patent. I asked him where he got
22 the worldwide patent, you know, what city, what
23 country, and could I have a copy. And he said
24 no, I would be receiving it in the mail.

25 And he showed me that the beads -- you

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2 know, he had his beads and showed me that they
3 were identical.

4 Q. And when you said you called Jeff, what
5 did you discuss with him?

6 A. Well, I had called him to tell him that
7 this phone call had occurred.

8 Q. And what was his response?

9 A. I think shock.

10 Q. And what did he say?

11 A. Well, he called Troy, who's a lawyer,
12 and had Troy call me.

13 Q. And what did you speak with Troy about?

14 A. About this patent, the worldwide
15 patent, you know. And he asked me, well, you
16 know, if Michael Lund shows up, ask him, you
17 know, where the patent was.

18 And so when Michael Lund did show up, I
19 asked him.

20 Q. What else did Troy say?

21 MR. GOGGIN: I will instruct the
22 witness not to answer any more questions
23 about what Troy said.

24 MS. SHORT: Based on what grounds?

25 MR. GOGGIN: Attorney-client privilege.

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2 A. I've had asked Troy to call other
3 customers.

4 Q. And who are they?

5 A. Carrots, Carina -- and I know he talked
6 to them. Carina also -- they carry Pandora and
7 supposedly are Pandora's biggest customers. And
8 they returned their product to Chamilia because
9 of the lawsuit. And because Michael Lund told
10 them he is closing us down. And they really
11 didn't want any part of this.

12 Q. Where's Words Lovely Words located?

13 A. In Oregon.

14 Q. And Carlos Italian Charm Shop?

15 A. Sacramento.

16 Q. California?

17 A. Um-hum.

18 Q. And Petals --

19 A. Territory.

20 Q. Petals & Stems? Without referring to a
21 document that's not been provided.

22 A. I think Idaho.

23 Q. Carrots?

24 A. California.

25 Q. Carina?

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2 Q. And how many customers were selling

3 Chamilia jewelry products at that time?

4 A. I don't know.

5 Q. Was it less than ten?

6 A. I think it was more.

7 Q. Was it more than 50?

8 A. I don't know that.

9 Q. So it was somewhere between ten and 50?

10 A. Probably.

11 Q. And did that ten to 50 number that you

12 just gave me include the entire United States?

13 A. Yes.

14 Q. Does Carrots currently sell Chamilia?

15 A. No, they sell Pandora. And they sell

16 other lines.

17 Q. Does Carina currently carry Chamilia

18 jewelry products?

19 A. No.

20 Q. Do they currently carry Pandora jewelry

21 products?

22 A. Yes.

23 Q. And when did they start carrying

24 Chamilia jewelry products?

25 A. Well, they both started in I think

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2 August, September.

3 Q. When did Carina start carrying Chamilia
4 jewelry products?

5 A. I think August.

6 Q. Of which year?

7 A. '03.

8 Q. Was that one of the customers that
9 returned --

10 A. They returned the first product and
11 then bought the new product.

12 Q. And when was the new product purchased?

13 A. I don't remember.

14 Q. Was it in January of 2004?

15 A. Probably.

16 Q. Who designed the jewelry that was
17 offered for sale in August and September of 2003?

18 A. I think Dove.

19 Q. Who's Dove?

20 A. He used to be involved with Chamilia.

21 Q. And what was his involvement with
22 Chamilia?

23 A. I think he did that part of it. He's
24 no longer involved.

25 Q. And when did he cease being involved

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2 customer, a retail location ever carried their
3 product?

4 A. Well, I'm sure they have a list.

5 Q. So they keep a list of all prior
6 customers of their jewelry products?

7 A. I'm sure it's in the computer.

8 Q. Does Chamilia also keep a list of those
9 customers that carry Pandora jewelry products?

10 A. No.

11 Q. Do you have a list of retail locations
12 which carry Pandora jewelry products?

13 A. No. You, know, I mean, other than I
14 have people that carry both. You know, some of
15 our customers carry Pandora and have mentioned
16 it.

17 There's several more people that, you
18 know, they have harassed. I mean, going back to
19 that list, I didn't even get started on the
20 people that had been harassed. And there's more
21 people I've had, you know, Troy Sergent call.

22 Q. And who are the other customers that
23 you are aware of that have received communication
24 from a Pandora representative about Chamilia?

25 A. Tina's Hallmark.

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2 Q. And where are they located?

3 A. California.

4 Q. And what do they claim were the

5 statements made by Pandora representatives about

6 Chamilia?

7 A. That they were closing us down.

8 Q. Anything else?

9 A. That they had a patent.

10 Q. Anything else?

11 A. I think that's enough. I mean, you

12 know, that in itself is pretty damaging when

13 people go around saying stuff like that.

14 Q. When did Tina's Hallmark communicate

15 this to you?

16 A. In the beginning of 2004.

17 Q. By what method of communication?

18 A. Her rep Norm.

19 Q. So you didn't personally speak with

20 Tina's Hallmark?

21 A. I have talked to her, and that would

22 probably be in -- I even talked to her at the

23 last January show.

24 Q. So the first time you heard that

25 statements were allegedly made by Pandora

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2 representatives as you've just described was in
3 early 2004?

4 A. From her.

5 Q. You spoke directly with Tina's Hallmark
6 and received that information?

7 A. Um-hum.

8 Q. Did you personally hear the statements
9 made by a Pandora representative to Tina's
10 Hallmark about Chamilia?

11 A. No.

12 Q. Have you personally heard any
13 statements made by Pandora representatives to
14 Tina's Hallmark that they have a patent?

15 A. No.

16 Q. Have you seen any written statements
17 made by Pandora representatives to Tina's
18 Hallmark that they have a patent?

19 A. No. I --

20 Q. Have you -- I'm sorry. Go ahead.

21 A. I have not heard anyone at Pandora say
22 anything to any of these customers. I have not
23 overheard it. I personally heard it from Michael
24 Lund, he told me. And Steve Glueck in the
25 following show in January, Steve Glueck

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2 personally, he kept walking by our booth. And
3 finally I stopped him and said hi, you know, are
4 you the Pandora rep and he said yes.

5 Q. Did you personally see any written
6 communications by Pandora representatives to
7 Tina's Hallmark that they were going to shut
8 Chamilia down?

9 A. No.

10 Q. In addition to Tina's Hallmark, what
11 other retailers have communicated to you that
12 they have heard statements made by Pandora
13 representatives about Chamilia?

14 A. So every person I name off you're going
15 to ask me, even though I've told you that they
16 haven't -- I didn't witness it, so we're going to
17 go through the ten questions with each customer?

18 Q. I'm sorry. I understand you're asking
19 me a question, but you're not really in the
20 position to ask any questions. I'm the one
21 asking questions.

22 If you could answer the question, I
23 would appreciate it. If you don't understand a
24 question I'm asking you --

25 A. Well, I mean -- I thought it was just

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2 and they had Pandora bracelets on and they said

3 they worked for Pandora.

4 Q. They communicated to you that they

5 worked for Pandora?

6 A. Uh-huh.

7 Q. Not through their T-shirt, but they

8 verbally communicated to you?

9 A. Yes, I talked to them.

10 Q. What territory did they have?

11 A. I don't know.

12 Q. And how old were they?

13 A. Probably in their 40s.

14 Q. How many of them were there?

15 A. Two.

16 Q. And what did they say to you about

17 Pandora?

18 A. We just talked about, you know, the

19 lines, that they were very good -- you know, they

20 were both pretty lines. And I told them to tell

21 Michael Lund hi for me.

22 Q. Did they discuss Chamilia with you?

23 A. They looked at the bracelets that we

24 had on our hands, hand.

25 Q. Other than Tina's Hallmark in

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2 California, what other retail locations have
3 communicated to you that they have heard
4 statements made by Pandora representatives about
5 Chamilia?

6 A. Charms by the Bay.

7 Q. And where are they located?

8 A. California.

9 Q. And what do they claim they heard

10 Pandora representatives say about Chamilia?

11 A. That they're closing us down.

12 Q. Anything else?

13 A. They had a patent.

14 Q. Anything else?

15 A. No.

16 Q. Did they explain to you the reason the

17 Pandora rep gave for them being able to shut

18 Chamilia down?

19 A. Oh, I'm sorry, they did get a letter

20 from Pandora at the very beginning. They had --

21 and that was that they were shutting us down.

22 And they did fax me -- they faxed the letter to

23 their rep. And their rep faxed the letter to me.

24 Q. And where's that letter today?

25 A. That letter? I faxed a copy to Jeff

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2 Q. Who had communicated that he received
3 it?

4 A. Me and Jeff.

5 Q. And when did you have that
6 communication?

7 A. When I faxed it to him.

8 Q. And that was beginning of 2004?

9 A. Yes. And he was going to fax it to the
10 lawyers.

11 Q. Do you know if he ever did that?

12 A. Well, I'm sure he did.

13 Q. Do you know if he ever did that?

14 A. No.

15 Q. Did you ever hear the statements made
16 by Pandora representatives to Charms by the Bay
17 about Chamilia?

18 A. No.

19 Q. Other than Charms by the Bay, what
20 other retail locations have communicated to you
21 that Pandora representatives have made statements
22 to them about Chamilia?

23 A. No -- I'm sorry. I zoned out. You
24 keep asking the same thing. What was your
25 question?

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2 MS. SHORT: Could you repeat the

3 question, Ms. Court reporter.

4 (Record read)

5 A. Okay. I'm sorry. Burlingame

6 Stationeries.

7 Q. Burlingame?

8 A. Burlingame.

9 Q. Could you spell that?

10 A. No. Burlingame.

11 MR. GOGGIN: B U R -- California?

12 THE WITNESS: Yes, I think so.

13 MR. GOGGIN: I think it's probably.

14 B U R L I N G A M E.

15 Q. Burlingame is the name of the store?

16 A. Stationeries.

17 Q. And what did they communicate to you

18 were the statements made by Pandora

19 representatives about Chamilia?

20 A. That they were shutting us down and

21 they returned their product because they didn't

22 want to be involved.

23 Q. And when did they return their product?

24 A. First part of '04.

25 Q. And to whom did they return it?

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2 Q. I asked Chamilia.

3 A. Yes, they carry Chamilia.

4 Q. And when did they start carrying

5 Chamilia?

6 A. Beginning of 2004.

7 Q. Do they carry Pandora?

8 A. No.

9 MS. SHORT: We're just going to take a
10 quick break so the gentleman can change the
11 videotape.

12 THE VIDEOGRAPHER: We're going off the
13 record at 11:01 a.m. This completes tape 1
14 of the deposition of Lisa Whirlow.

15 (Recess)

16 THE VIDEOGRAPHER: We're back on the
17 record at 11:13 a.m. This begins tape 2 of
18 the deposition of Lisa Whirlow.

19 BY MS. SHORT:

20 Q. Ms. Whirlow, other than Burlingame

21 Stationery, what other retailers have

22 communicated to you that Pandora has made

23 statements about Chamilia?

24 A. Blackberry Creek.

25 Q. And what did they communicate to you

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2 were the statements made by Pandora

3 representatives?

4 A. Well they had, Blackberry Creek, they

5 had said that they were closing us down. They

6 also sold us and Pandora and they were scared and

7 they returned their Pandora --

8 Q. Returned Pandora?

9 A. I mean, I'm sorry, Chamilia. And then

10 they -- that was the first of '04. Then they

11 continued selling Pandora and then they started

12 buying Chamilia again. And then Michael Lund

13 gave them a letter saying that they could -- that

14 they had to sign that they could only sell

15 Pandora.

16 And they -- so they sent their -- then

17 they decided to send their product back to

18 Pandora because of the harassment. They said

19 they really didn't want to deal with Pandora

20 anymore. And this was a big ruckus. It was on

21 Gift Beat, which is a website that retailers go

22 on and talk on.

23 And Michael Lund -- and this is a very,

24 very nice woman with six kids, and he was very

25 rude and mean and nasty to her. And she wrote a

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2 Q. And how did you deal with it?

3 A. No, I told him to deal with it.

4 Q. You told --

5 A. Jeff.

6 Q. You told Jeff --

7 A. He said he's dealing with it. Great,

8 you know, you've got a copy of it. Do we need

9 our lawyer to call this customer, and we didn't.

10 Q. But you don't know who that customer

11 was?

12 A. No.

13 Q. Other than Blackberry Creek, what other

14 customer has communicated to you that Pandora

15 representatives have made statements to them

16 about Chamilia?

17 A. God, I wish I did have my customer list

18 here.

19 There's stores that -- Ann's Hallmark,

20 he had a chain of several stores. And he was at

21 the San Francisco gift show and had gone to their

22 booth and was told they were shutting us down and

23 he never opened. I don't think he opened with

24 Pandora either. But he was going to open. And

25 over this -- so he didn't. And he has several

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2 stores. Country Charm is another store.

3 Q. And who is the owner of Ann's Hallmark?

4 A. John something.

5 Q. When you say he, do you refer to John?

6 A. Um-hum.

7 Q. And what has John communicated to about

8 the statements made by Pandora representatives

9 about Chamilia?

10 A. "You know they're saying they're going

11 to close you down, that they have a patent?" And

12 I said yes, I know that, and it's not true.

13 Q. And when did he make these statements

14 to you?

15 A. In January.

16 Q. Of this year?

17 A. No, '04. I'm sorry, maybe -- yes,

18 January '04.

19 Q. And how did you know in January of '04

20 that Pandora did not have a patent?

21 A. Well, we had tried to find -- done

22 patent searches. Or I was told we had done

23 patent searches. I had personally asked Michael

24 Lund and I had asked Steve Glueck what was the

25 patent number, where was it filed.

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2 Pandora?

3 A. Where was John?

4 Q. Where did the conversation occur?

5 A. At their booth.

6 Q. Whose booth?

7 A. Pandora's. At trade shows you have --

8 you rent space. And so everybody has a booth.

9 Q. Did you visit the Pandora booth at that

10 San Francisco January '04 trade show?

11 A. No. It's pretty unethical to walk into

12 someone else's booth if you're, you know, not

13 friends.

14 Q. In addition to Ann's Hallmark, what

15 other retail locations have communicated to you

16 that they've received statements from Pandora

17 representatives about Chamilia?

18 A. Simply Charming.

19 Q. And what do they claim the statements

20 were that were made?

21 A. That they were closing us down, that

22 they had a patent.

23 Q. And who are they?

24 A. Pandora.

25 Q. And when did you have this conversation

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1 Q. By what means of communication did you
2 have that conversation?

3 A. They had gone to the, you know, shows
4 and -- we were like two aisles away from Pandora.
5 And you walk the aisles. And so if people would
6 go -- you know, people who were maybe interested
7 in our product, then they, you know -- when
8 you're a buyer, you walk the whole show. And you
9 also, if you're interested in certain items, you
10 look at all. You know, you compare the different
11 items.

12 Q. So your discussions with Simply
13 Charming about statements made by Pandora
14 representatives about Chamilia occurred during
15 that January '04 San Francisco trade show?

16 A. Um-hum.

17 Q. Did you have any other conversations
18 with Simply Charming regarding Pandora?

19 A. She thought they were assholes.

20 Q. Other than that?

21 A. No.

22 Q. Does Simply Charming carry Chamilia

23

24

25

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2 Q. Do you live in New York?

3 A. No.

4 Q. Where were --

5 A. I was in my hotel room.

6 Q. Were you looking at any document while
7 you wrote down those names?

8 A. No, just trying to go through my, you
9 know, my mind.

10 Q. Okay.

11 A. David M. Brian, he's in California.

12 Q. And what statements do David M. Brian
13 claim were made by Pandora representatives about
14 Chamilia?

15 A. He carries Pandora. He was going to
16 carry Chamilia. And due to the statements that
17 they're closing us down in the lawsuit he didn't
18 bring us in.

19 Q. Has David M. Brian ever carried
20 Chamilia?

21 A. No.

22 Q. And when did you learn that David M.
23 Brian received statements from Pandora
24 representatives about Chamilia?

25 A. I don't remember.

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2 Q. Just so the record's clear, my
3 understanding is Pandora representatives made
4 statements to David M. Brian who communicated
5 those statements to Tony Brading, and then Tony
6 Brading communicated those statements to you?

7 A. Right.

8 Q. At any time did you communicate those
9 statements to Jeff Julkowski?

10 A. Probably.

11 Q. And when was that?

12 A. Probably when it happened.

13 Q. Did you communicate to anyone else
14 about these statements?

15 A. I don't think so.

16 Q. Other than David M. Brian --

17 A. I didn't talk to David M. Brian.

18 Q. Other than David M. Brian, what other
19 retailers?

20 A. Oh, okay. Linda's Gifts.

21 Q. And where are they located?

22 A. California.

23 Q. And what statements did they claim were
24 made by Pandora representatives about Chamilia?

25 A. All these people I'm going to give you

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2 the name, they all had the same statement. You
3 know, they had a patent, they were closing us
4 down. So if that helps any.

5 And all these people, you know, I did
6 not oversee or hear Pandora.

7 Q. So the list you have in front of you,
8 is that an all-inclusive list of all the
9 retailers who have made communications to you
10 that Pandora representatives have made statements
11 to them about Chamilia?

12 A. No. Not even close. No. There's so
13 many more.

14 Q. And what document would indicate who
15 those customers are?

16 A. I would have to go through the customer
17 list. I mean -- I wasn't about -- I didn't
18 really want to take the time to do all that. Go
19 through the customer list and, you know, talk --
20 because it's different areas and different reps
21 and stuff.

22 To me this is all so negative and
23 upsetting. I really -- I like to be more
24 positive and have fun and do good things and not
25 deal with negative stuff. So I really try not to

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2 representatives --

3 A. I could determine --

4 Q. -- about Chamilia?

5 A. Yes, I could determine some of them.

6 This is a daily thing. I mean -- usually some

7 things die down. This just doesn't seem to be

8 dying down and going away.

9 Q. What other retailers have communicated

10 to you that they received statements made by

11 Pandora representatives about Chamilia?

12 A. Dolls & Ducks. And he actually had

13 conversations with Michael Lund and he talked to

14 Michael Lund's attorneys. Chuck is his name.

15 Q. Chuck at Dolls & Ducks?

16 A. Um-hum. And I don't know what division

17 of the attorneys, because he had -- he had it up

18 on his website. And had had personal

19 conversations with also Pandora's attorneys. I

20 don't know if that's you guys or someone before.

21 Q. And when you refer to it, what was it

22 that was on his website?

23 A. The Pandora -- the Chamilia product.

24 Q. And it's no longer offered for sale on

25 Dolls & Ducks?

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2 A. Yes, it is.

3 Q. So --

4 A. But he was harassed. I'm sorry. He
5 was one that was harassed. He still sells
6 Chamilia.

7 Q. Did Dolls & Ducks ever sell Pandora?

8 A. No.

9 Q. They've never sold Pandora?

10 A. No. After dealing with them they said
11 there was no way they would sell the product.

12 Q. Was Dolls & Ducks one of the retailers
13 that was selling Chamilia jewelry products in the
14 fall of 2003?

15 A. Yes.

16 Q. And what did they do with their
17 merchandise that they were selling?

18 A. They returned it.

19 Q. And who did they return it to?

20 A. The Chamilia office.

21 Q. And what was the reason for their
22 return?

23 A. Because we called it back.

24 Q. And why did you call back the
25 merchandise being sold at Dolls & Ducks?

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2 Q. And when did he tell you that?

3 A. When it happened, and I don't remember

4 when it happened.

5 Q. What else did he tell you about the

6 lawsuit?

7 A. That it was over. I mean, we really --

8 I really don't try to talk about those things. I

9 mean, I do so many other things. So I really try

10 to, you know, stay off the things that I don't

11 have to waste the brain energy on.

12 Q. In your years of experience working in

13 the jewelry industry, what other manufacturers

14 that you've represented have recalled their

15 product as a result of a lawsuit?

16 A. I've never experienced any of this

17 before.

18 Q. So prior to working for Chamilia,

19 you've never repped for any other jewelry company

20 that was ordered to recall their merchandise that

21 was offered for sale as a result of a lawsuit?

22 A. No.

23 Q. Other than Dolls & Ducks, what other

24 retailers have communicated to you that they

25 received statements made by Pandora

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2 representatives about Chamilia?

3 A. Country Clutter. It's a chain of
4 stores individually owned. Pandora had contacted
5 their main office and several stores involved in
6 their chain and, you know, told them.

7 Q. Who at Pandora communicated with
8 Country Clutter?

9 A. You know, I don't know. Because
10 there's so many different owners and different,
11 you know -- they're in different states and
12 everything. Their corporate office is out of
13 California.

14 Q. Did you ever hear statements made by
15 Pandora representatives about Chamilia to Country
16 Clutter?

17 A. No.

18 Q. Do you know whether or not Country
19 Clutter received written statements made by
20 Pandora representatives about Chamilia?

21 A. I don't know. But I assume they did.

22 Q. Other than names that you're going to
23 read from that piece of paper, are there any
24 other --

25 THE WITNESS: You're covering your mic.

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2 conversations.

3 Q. Why don't you, if you could, read the
4 names into the record.

5 A. Well, I mean --

6 MR. GOGGIN: Just read them in.

7 Q. I think you left off at Country
8 Clutter.

9 A. Yes, I know where I left off.

10 Classic Duck.

11 Q. Okay. You can continue.

12 A. Oh, I can?

13 Q. Just give the list.

14 A. Oh, great. Okay. Perfect.

15 Interiors & More, Fine Things, A

16 Thousand Charms, Forever Charmed, Shad's, Bishop

17 Hallmark, Pamela's, Identity Jewelers, Picket

18 Fence. And I just thought of another one,

19 Richard's Gifts. And --

20 MR. GOGGIN: Are you still reading from
21 the list.

22 THE WITNESS: No, I'm not. I've read
23 all the list that I wrote down this morning.

24 Q. Okay. Before you leave I'd like a copy
25 of the list.

Q. Have you ever described those grooves
11 or the twisting motion as threading?

12 A. No, I haven't.

13 Q. Other than the portion that the bead is
14 twisting over on the end of the chain, is there
15 any other twisting that is required in order to
16 attach the beads onto the chain?

17 A. No, no. We changed this part, the lock
18 part.

19 Q. I'm asking, is it today?

20 A. No.

21 Q. What do you mean you changed the lock
22 part?

23 A. There's no twisting on the middle
24 pieces.

25 Q. By the middle pieces, what do you mean?

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2 A. The humps in the middle is what I call
3 them. I'm sure you call them something else.
4 But these pieces.

5 Q. And where are those pieces affixed onto
6 the chain?

7 A. In the middle I guess.

8 Q. Exactly in the middle?

9 A. Like balancing the bracelet out.

10 Q. Balancing the bracelet out into three
11 equally divided segments?

12 A. Um-hum.

13 Q. Can I see your bracelet, please. Is
14 this the lock that you previously described in
15 the record as an octagonal shape?

16 A. Um-hum.

17 Q. Is that the lock that was previously
18 used to close, fasten Chamilia bracelets?

19 A. No.

20 Q. And how is it different, since we have
21 it now? If you can describe --

22 A. I don't really know. I mean, it's
23 different on the outside look. On the inside
24 it's different, but I don't know how. I know
25 this is different where it's not screwed from

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2 before.

3 Q. And when was that changed?

4 A. After the first lawsuit.

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2 MR. GOGGIN: She just said she --

3 A. I gave you a couple. I mean, I gave
4 you, you know, a couple of them. A stone falls
5 out.

6 Q. No, that's when you explained that a
7 product was damaged. I'm asking what your
8 experience is with a defective jewelry product.

9 A. I mean, it's just the buzz word. You
10 write damaged and defective merchandise. Love
11 Letters, Jewelry John, all the companies, you
12 know, guarantee -- it's just the way you write
13 it.

14 Q. But then there's nothing defective that
15 you've received as a return from customers?

16 A. I'm sure there is.

17 Q. Then what are those situations?

18 A. You know, it's maybe something's not
19 right with it. I don't -- you know.

20 Q. And what about it wouldn't be right
21 that would make it defective?

22 A. That it might not go on the bracelet.

23 Q. Why wouldn't it go on the bracelet?

24 A. Because it would be defective.

25 Q. What about the bead would be defective

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2 that wouldn't allow it to attach to the bracelet?

3 MR. GOGGIN: This is all speculation.

4 I object to this questioning.

5 MS. SHORT: I asked for examples and

6 she's providing me examples of situations --

7 MR. GOGGIN: Of what might be?

8 MS. SHORT: Court reporter, could you

9 read back the entire exchange, please.

10 (Record read)

11 A. I mean, the hole could be too small.

12 Q. Have you seen that with Chamilia beads?

13 A. That the hole's too small?

14 Q. Um-hum.

15 A. I don't really -- I mean, I've seen a

16 pile of stuff that came back. I don't go look at

17 it. I don't care.

18 Q. But have you?

19 A. No.

20 Q. So what product have you received as a

21 return from a customer that has been defective?

22 A. I personally don't do returns. I'm not

23 involved in that. So I don't think I personally

24 have taken anything back.

25 Q. What have your sales reps communicated

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2 to you that customers have returned based on a
3 product sold by Chamilia being defective?

4 A. Well, if it's defective, I tell them,
5 you know, to take care of it.

6 Q. And what about the jewelry product was
7 defective?

8 MR. GOGGIN: Asked and answered.

9 A. I mean, it's like I don't get involved
10 in that. I mean, it's like I do other things. I
11 mean, it's like -- I want them to take care of
12 the customers and make the customer happy.

13 Q. Have you ever had situations where a
14 customer returned a bead because it was unable to
15 thread onto the bracelet?

16 A. To me, no. I --

17 MR. GOGGIN: If you don't know, say you
18 don't know.

19 Q. Do you have knowledge of a situation
20 where a customer returned a bead and it was --

21 A. I'm sure these things have happened.
22 But do I have exact knowledge of these certain
23 situations, no.

24 Q. Are you aware of any situation where a
25 customer returned a Chamilia jewelry product

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2 because a bead was unable to be removed from the
3 bracelet because it was stuck?

4 A. Yes, I do know that.

5 Q. Would you call it a defect?

6 A. I mean, we would characterize it as a
7 defect. But whether or not the customer hit the
8 bead and damaged it, we cover it. But how it
9 actually happened -- it went on there at one
10 point and it was fine. So I think that there was
11 some damage done to it, but we still cover it.

12 Q. But that would be a defect if a bead
13 was stuck on --

14 A. That would come under damage and
15 defect. So, I mean, your interpretation of
16 damage and defect, I don't analyze it all that
17 much.

18 Q. I'm just asking for your understanding.

19 A. I know.

20 Q. Who do you consider to be competitors
21 of Chamilia?

22 A. Pandora.

23 Q. What makes Pandora a competitor of
24 Chamilia?

25 A. Well, what I say to people is, at a

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2 representing Chamilia jewelry products?

3 A. You know, Joyce Townsend, Ryan Whirlow,

4 Chris Whirlow. Ivy was there. Norm was there.

5 Q. Norm who?

6 A. Lewis.

7 Q. Was Dove Schwartz there?

8 A. Who?

9 Q. Dove Schwartz?

10 A. Yes, he showed up. But to bring

11 stuff.

12 Q. At the San Francisco August 2003 show

13 did you take out a booth of Chamilia products?

14 A. I had a booth already.

15 Q. At which you displayed Chamilia

16 products?

17 A. Um-hum.

18 Q. Was that the first trade show at which

19 Chamilia jewelry products were displayed?

20 A. Yes.

21 Q. Did Pandora also have a booth at the

22 San Francisco trade show?

23 A. No.

24 Q. You indicated that you had a discussion

25 with Michael Lund at the San Francisco trade

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2 show. Can you discuss that with me.

3 A. He only got on the plane and came to
4 see me. He didn't come to the gift show. He
5 wasn't going to be there. It was a last-minute
6 thing.

7 Q. Did any representative of Pandora visit
8 the booth that you operated and displayed
9 Chamilia jewelry products?

10 A. I think Jim was a represent -- rep for
11 him, but he kept it very secret. And I think,
12 but I don't know, but I think Jim, I can't
13 remember his name, was also a customer of ours.
14 Owns another Italian charm line. But I think he
15 also worked for Pandora at the time. But he
16 didn't identify himself as a Pandora rep.

17 Q. So the gentleman you spoke with named
18 Jim, what did you discuss?

19 A. I don't think he talked to me. I think
20 he talked with his rep which was Tony.

21 Q. So to your understanding what made
22 Michael Lund approach you at the San Francisco
23 gift show?

24 A. He called and said he was shutting us
25 down. I told you that earlier, remember?

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2 Q. Did you discuss a copyright issue at

3 that time with Michael --

4 A. No, worldwide patent.

5 Q. Was the word copyright mentioned at

6 that time?

7 A. No, worldwide patent. Which I've never

8 heard of a worldwide patent until -- and that's

9 why I was so adamant what country did he get it

10 in, where do you get one.

11 Q. At that time had you had any other

12 communications with Michael Lund?

13 A. No.

14 Q. Did you know who Michael Lund was prior

15 to that communication?

16 A. Um-hum.

17 Q. And how did you know who he was?

18 A. Because he -- another person I worked

19 with in the other industry had given Michael Lund

20 my name and told him that he should contact me

21 and hire me. And he did not. And then he showed

22 up in the booth.

23 Q. Did you ever contact him to attempt to

24 carry Pandora jewelry?

25 A. My stores, yes.

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2 someone's booth like that, so I wouldn't do that.

3 Q. In paragraph 7 of your declaration, you

4 indicate that you immediately after hearing Mr.

5 Lund's patent assertions, as described in

6 paragraph 6, that you contacted Jeff Julkowski.

7 When you say immediately, how long

8 after you had the conversation with Mr. Lund did

9 you contact Mr. Julkowski?

10 A. I called him right after he walked out

11 of the booth. As a matter of fact, Michael Lund

12 came back and I was on the phone with Jeff.

13 Q. And how long was your conversation with

14 Michael Lund?

15 A. I would say at least 15 minutes, maybe

16 30.

17 Q. 15 to 30 minutes you spoke with Michael

18 Lund?

19 A. Um-hum.

20 Q. And of the 15 to 30 minutes, how much

21 of that time was designated to discussing

22 patents, or any patent rights Pandora may have?

23 A. Well, I mean, he said it, you know,

24 numerous times. And I asked him, you know, for a

25 patent number, the patent city, state, where he

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2 started, you know. Nothing was said about a
3 trademark at that point.

4 I explained to him about the Italian
5 charm business. He explained to me what he
6 wanted to do, where he wanted to take his
7 company, his vision.

8 Q. Do you remember which day -- well, it
9 says August 27, 2004. Do you know what day of
10 the week that was, do you recall?

11 A. No. I think it was like the last day
12 of the show, you know.

13 Q. And how long --

14 A. Or day before.

15 Q. -- does the San Francisco international
16 gift show usually last?

17 A. Five days.

18 Q. And when does it usually begin, what
19 day of the week?

20 A. Saturday and ends on a Wednesday. It
21 actually -- I think it was Tuesday. He maybe
22 didn't come -- it wasn't the very last day maybe.

23 Q. And did you contact Mr. Julkowski at
24 the Chamilia offices?

25 A. I think I called his cell phone.

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2 the caption as it appears today, was that on the
3 document when you signed it, the Declaration of
4 Lisa Whirlow in Support of a Petition to Access a
5 Pending Patent Application?

6 A. I would assume.

7 Q. Did you read the entire document before
8 you signed it?

9 A. I'm sure.

10 Q. And what did you understand that
11 caption to be in reference to?

12 A. I don't think I really cared.

13 Q. You didn't ask?

14 A. I'm sure we talked about it, you know.

15 I just basically wanted, you know, this to go
16 away and get on with life. I mean, you know, I'm
17 in sales and I, you know, am trying to work. I
18 don't like having this aggravation all the time.

19 So I don't really remember what we
20 talked about. I mean, I know they made me aware
21 of why I was doing this. I mean, but right now I
22 don't know.

23 Q. I refer your attention to paragraph 10.

24 A. That's the winter gift show.

25 Q. The sentence that begins "Those

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2 representatives," the second line down, do you

3 see that?

4 A. Um-hum.

5 Q. To whom do you refer when you say those

6 representatives?

7 THE VIDEOGRAPHER: We have to go off

8 the record for a second. For some reason

9 this just stopped.

10 (Recess)

11 THE VIDEOGRAPHER: We're back on the

12 record at 3:43 p.m. This begins tape 4 of

13 the deposition of Lisa Whirlow.

14 MS. SHORT: Ms. Court reporter, can you

15 please read back the last question.

16 (Record read)

17 A. The representatives in our booth would

18 talk to people about buying Chamilia, and then

19 they would walk a couple of booths, you know,

20 over. And then when they would go to Pandora, a

21 lot of them wouldn't return to buy the product

22 after, you know, they said they wanted to.

23 Q. Those representatives referred to --

24 A. I'm talking about my sales, the sales

25 staff that were in the booth for Whirlow &

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2 Associates.

3 Q. Those representatives further informed

4 you that they would not order product from

5 Chamilia based on an assertion made by Mr.

6 Glueck?

7 A. Right.

8 Q. So you're referring to Chamilia

9 representatives or Chamilia's customers?

10 A. I didn't catch that before. Basically

11 what it is is the customers -- the reps, the reps

12 in our booth and the customers, you know, they

13 would have a conversation and they were going to

14 buy the product. And then after the customers

15 would talk to Steve, you know, or go to the

16 Pandora booth, then they didn't want to buy

17 Chamilia anymore, is what that means.

18 Q. So the representatives refers to the

19 they and the they is the Chamilia customers?

20 A. It's -- there's really a couple words

21 missing out of there. It should be the

22 representatives and after they and the customers.

23 So there's a little bit of --

24 Q. To your knowledge, do you know whether

25 any Chamilia sales representatives have been